



Colorado Office of the Child's Representative

2012 Annual Report to the General Assembly
Revised November 2012



The Office of the Child's Representative (OCR) is required by C.R.S. § 13-91-105 to submit a report to the General Assembly in September of each year. The report provides an update of the OCR's mandated efforts to provide and oversee best interest legal representation for children in Colorado. The report includes an overview of OCR's major accomplishments, fiscal management of appropriations and goals.

The Office of the Child's Representative provides competent and effective best interests legal representation to children who have been abused, neglected or abandoned, impacted by high conflict parenting time disputes or charged with delinquent acts and without a parent or guardian able to protect their best interests during the proceedings. **OCR spends 4.64% of its budget on central administration. Eighty-one percent (81%) of OCR's budget is expended on attorney services in dependency and neglect cases.** OCR contracts with 230 attorneys skilled in pediatric and juvenile law throughout the state and in every judicial district to provide mandated legal services. The contract entities are **small businesses**, including sole practitioners, law firms, and non-profit organizations.

Highlights:

The Guided Reference in Dependency (GRID), Colorado's first comprehensive advocacy guide for dependency and neglect practitioners, went to print this fiscal year. OCR staff took the lead in the coordination of the writing, editing, and publishing of the GRID. The GRID is fully-funded through a grant award.

Assessment of pilot program to deliver GAL services through multidisciplinary offices in Arapahoe and Denver counties has taken an important step as OCR partnered with DU's Graduate School of Social Work to evaluate the effectiveness of the pilot programs.

Expanded attorney performance assessments through an electronic survey sent to a greater number of diverse stakeholders.

OCR 2012 General Assembly Report

From the Executive Director

Once again it is my pleasure to introduce the OCR's Report to the General Assembly. This 2012 Report details our efforts toward our singular mission: improving attorney representation for Colorado's most vulnerable children. As in every year, OCR's 230 plus attorneys represented each of the abused and neglected children involved in Colorado's child welfare system. In addition, our attorneys represented children in juvenile delinquency, paternity, truancy and high conflict domestic relations cases.

Our agency is committed to providing competent, zealous best interests representation for each child through every stage of the proceeding. As such, we have worked to improve attorney services through our selection process, oversight, compensation, training and litigation support. Through our Cornerstone Advocacy Practice model, OCR attorneys have stressed front loading services to children with the goal of unifying families whenever possible. OCR has worked with the bench and the bar to support a child sensitive legal system trained not only in the law but on issues unique to children.

As a state agency, we must achieve our mission in the most cost efficient manner possible and that means that we must continue to innovate. I am happy to report that projects we began in 2011 have now borne fruit. Last year, we initiated a two and half year pilot of multidisciplinary law offices in Denver and Arapahoe counties, two of the largest jurisdictions in Colorado. In 2012, we partnered with the University of Denver Graduate School of Social Work to begin a formalized assessment of that model to determine if it is the most effective delivery system for best interests representation. This is a unique public private partnership that involves graduate students in designing and conducting a formal research project analyzing outcomes in child welfare. Our web based case management and billing system has allowed us to begin to access real time data on attorney activity and case progress. We are using that system to develop case norms and track trends by jurisdiction, courtroom and individual attorney. Our comprehensive advocacy guide, named the GRID (Guided Reference in Dependency), has been completed. The GRID was developed with a grant from the Children's Justice Act and is Colorado's first comprehensive integration of legal standards and advocacy tips for attorneys practicing in child welfare. With the support of the Court Improvement Project, the GRID will be provided not only to OCR attorneys, but to every attorney practicing in child welfare as well as to judicial officers and CASA programs ensuring a higher level of base knowledge for all.

While all of these innovations have enabled us to better serve children, that is not possible without the commitment of our small staff and our amazingly dedicated contract attorneys. Representing the most vulnerable of Colorado's citizens, our children, is hard work. Impacting the lives of individual children and families in such a fundamental way is, however, a tremendous privilege. Thank you as members of the legislature for your continued support of our efforts.

Sincerely,

A handwritten signature in blue ink that reads "Linda Weinerman". The signature is written in a cursive, flowing style.

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CHILD'S REPRESENTATIVE BOARD

The Colorado Supreme Court appoints the nine-member child's representative board (Board) in accordance with the requirements and qualifications found in Colorado Revised Statutes § 13-91-104(2). The Board must consist of three attorneys, three advocates for children in the court system, and three citizens. There must be no more than five members of one political party and six of the seven congressional districts must be represented on the Board. The Board serves without compensation and works cooperatively with OCR's Executive Director to provide fiscal oversight, participate in policy and funding decisions, and assist in GAL and CASA training, as needed. The diverse and experienced Board represents all seven congressional districts and has a balance of Republican and Democratic members.

Terraine Bailey, Democrat, Sixth Congressional District, *GAL Attorney, Denver County, Attorney*

Marsha Caplan, Democrat, Second Congressional District, *Executive Director, Voices for Children CASA, Advocate*

Paul Garcia, Democrat, Seventh Congressional District, *Dean of Adams City High School, Citizen*

Lynne Hufnagel, Democrat, First Congressional District, *Retired Denver District Court Judge, Attorney*

Laura Hunt, Republican, Fourth Congressional District, *Executive Director, Larimer County Child Advocacy Center, Advocate*

Senator Cheri Jahn, Democrat, Seventh Congressional District, *Owner, Colorado Housekeeping & Home Care Services, Citizen*

Peggy Rudden, Republican, Sixth Congressional District, *Executive Director, CASA Advocates for Children, Advocate*

Joseph Wallis, Republican, Fifth Congressional District, *GAL Attorney, El Paso County, Attorney*

(Former) Senator Al White, Republican, Third Congressional District, *Director, Colorado Tourism Office, Citizen*

Ms. Victoria Black, non-voting Youth Advisory member. Although not statutorily required, the Board includes a non-voting youth advisory member. The youth advisory member is a former beneficiary of GAL services.

OCR STAFF

Linda Weinerman, Executive Director

Sheri Danz, Deputy Director

Amanda Donnelly, Staff Attorney

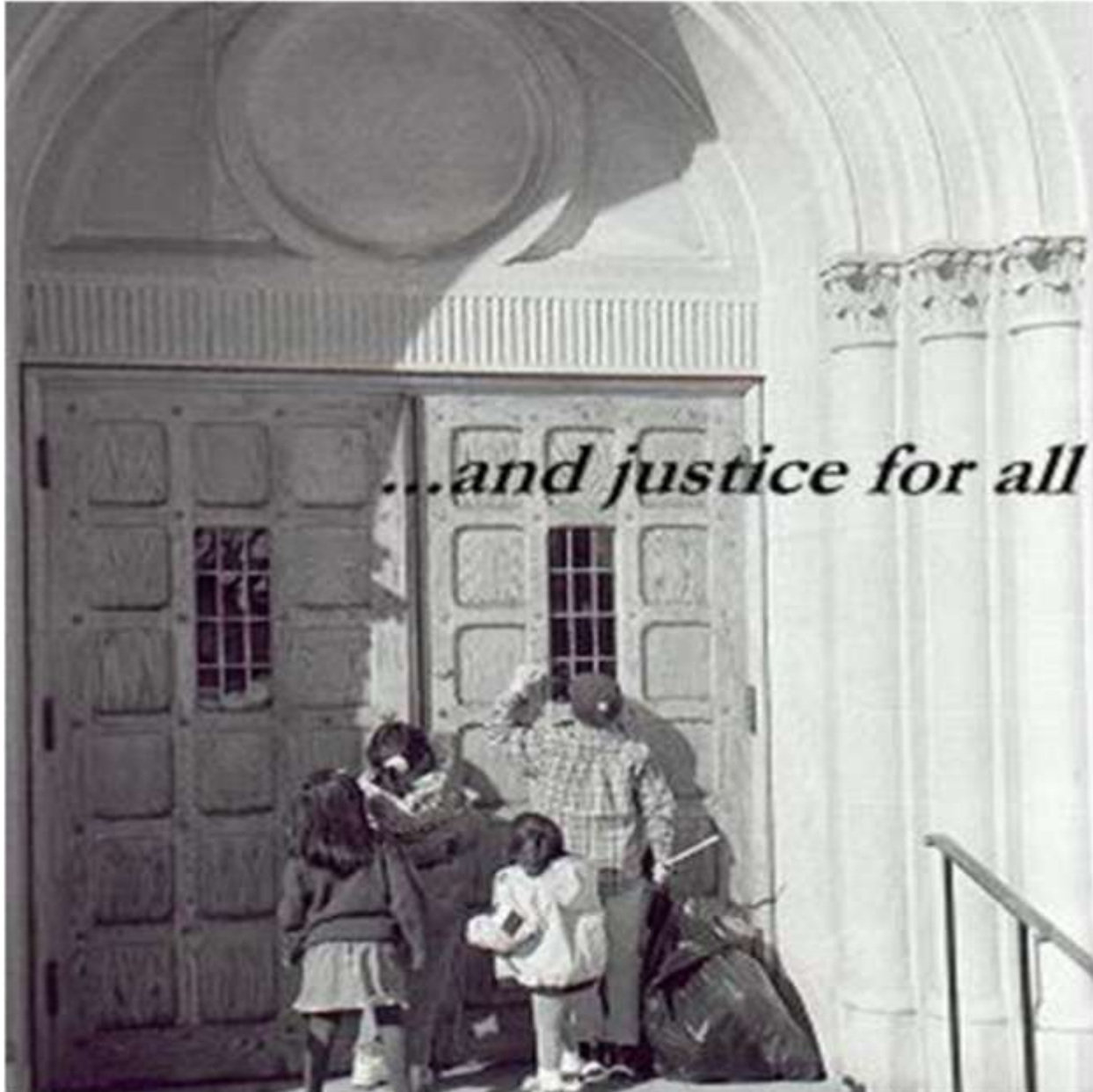
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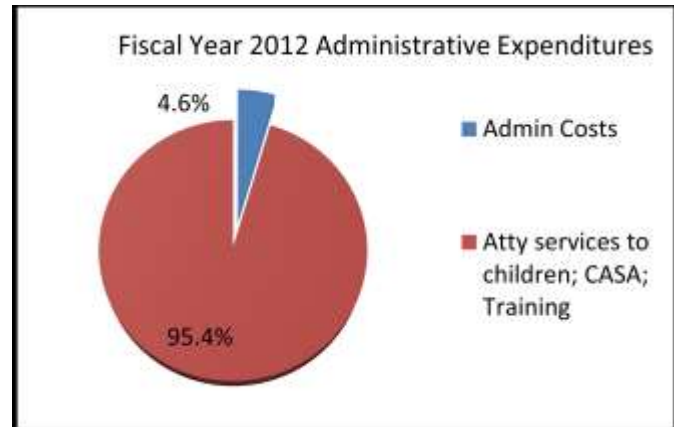
www.coloradochildrep.org

OVERVIEW

The **Office of the Child's Representative (OCR)** is the state agency mandated to provide competent and effective best interests legal representation to children involved in the Colorado court system. OCR was created by the General Assembly in 2000 to improve representation for Colorado's most vulnerable children by establishing minimum practice standards and providing litigation support, accessible high-quality statewide training, and oversight of the practice.

OCR serves children who have been abused and neglected, impacted by high-conflict parenting time disputes, and/or charged with delinquent acts and without a parent or guardian able to protect the children's best interests during the proceedings. In Fiscal Year 2012 (FY 12), the OCR served nearly **21,000 children** involved in dependency and neglect, delinquency, truancy, probate, and high conflict divorce cases. At least 70% of these children are victims of serious child maltreatment such as sexual and egregious physical abuse and neglect. Many of these children have been removed from their family home and spend time in foster care. These children require attorney best interests legal services for the entire life of their case.

OCR spends 95.4% of its budget on meeting its statutory mandates, primarily on attorney services for children through state employees in the Office of the Child's Representative El Paso County Guardian *ad litem* Office (OCR El Paso GAL Office) and independent contractors throughout the state. The remaining 4.6% of its budget is used to administer the agency, which consists of a staff of eight employees (7.5 FTE) in the Denver Office.



OCR staff oversees approximately 230 contract attorneys throughout the state. The OCR El Paso GAL Office employees 13 attorneys, five case workers/coordinators, and four support staff (19.4 FTE). OCR attorneys are skilled in pediatric and juvenile law and often live and work in the same communities as the children and youth they serve. Depending upon the case to which the attorney is appointed, the attorneys are known as Guardians *ad litem* (GALs), Child Legal Representatives (CLRs), or Child and Family Investigators (CFIs). They provide attorney services at a reduced rate of \$65 per hour. The average cost of an OCR case in FY 12 was \$1,138.

OCR maintains high expectations of its independent contractors and OCR El Paso GAL Office state employees. In addition to the professional standards governing all attorneys, OCR attorneys are held to standards set by Chief Justice Directive (CJD) 04-06, CJD 04-08, their contract with OCR, and the practice standards set by OCR. GALs must independently investigate the matters to which they are appointed, make recommendations that are in the best interests of the child, and advocate on the child's behalf. GALs must meet each child in each placement and continue to communicate with the child throughout the case. Although the unique statutory responsibilities of a GAL/CLR do not set forth a traditional attorney-client relationship between the appointed attorney and the child, the client of the GAL/CLR is the best interests of the child. The GAL's/CLR's determination of the child's best interests must include consultation with the child in a developmentally appropriate manner.

OCR monitors attorney services throughout the year in a number of ways. The OCR sends annual surveys aimed at assessing GAL performance to stakeholders in all 22 judicial districts, namely judicial officers, court facilitators, court administrators, and active CASA agencies. This year, OCR also distributed an electronic stakeholder survey to department caseworkers, respondent parent counsel, department attorneys, and probation officers. Each year, the OCR Executive Director and attorney staff meet with or communicate with stakeholders in each of the 22 judicial districts to assess attorney services. The OCR monitors hourly billing statements submitted by GALs in order to ensure that the work done on a case is adequate and that state dollars are used for only allowable expenditures. The OCR conducts random audits of attorney work. Every complaint received by the OCR is thoroughly investigated. The OCR has implemented corrective action, including termination of or not renewing attorney contracts with GALs who have displayed a pattern of failing to meet OCR expectations, the requirements of CJD 04-06, and contractual obligations.

OCR is a resource to legislators by providing information and answering questions concerning children's issues. OCR welcomes comments and questions from legislators regarding GALs, legislation or specific issues concerning children or GALs in a legislator's community.

OCR's LEGISLATIVE MANDATES

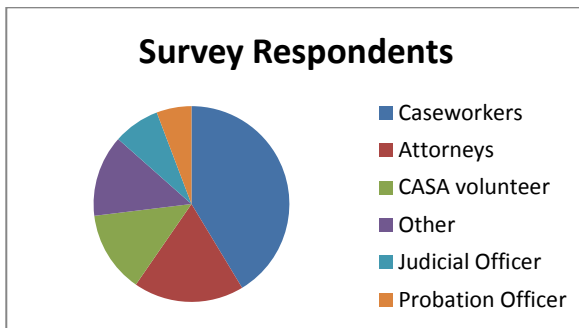
OCR's legislative mandates are set forth in C.R.S. § 13-91-101, *et seq.* The mandates include:

- I. Provide oversight and improve quality of best interests attorney services and maintain consistency of best interests representation statewide.
- II. Establish minimum practice standards, duties and responsibilities for all attorneys representing children in judicial proceedings, including the investigation of maximum-caseload limitations for GALs.
- III. Provide litigation support to OCR attorneys.
- IV. Establish minimum training requirements and accessible high-quality training statewide for attorneys, judges, magistrates and Court Appointed Special Advocates (CASA) volunteers.
- V. Establish fair and realistic compensation for state-appointed children's attorneys sufficient to retain high-quality, experience pediatric attorneys.
- VI. Assess and document the effectiveness of various models of representation.
- VII. Work with CASA to develop CASA offices in each county and enhance funding resources for CASA.

I. Provide oversight and improve quality of best interests attorney services and maintain consistency of best interests representation statewide.

The Executive Director, Deputy Director, staff attorneys, and office staff monitor attorney services in a number of ways. Each year, the OCR Executive Director and attorney staff meet or communicate with stakeholders in each of the 22 judicial districts to assess attorney services. In addition, OCR staff monitors contract attorney services by scrutinizing billing statements, conducting an annual contract/evaluation process, investigating complaints, and assessing compliments and other feedback on attorney’s work.

Annual Surveys. The OCR sends written surveys annually to judicial officers, court facilitators, court administrators, and CASA agencies in all 22 judicial districts. The survey results allow OCR to review the competence of attorneys and quality of attorney services, as well as the validity of any concerns. In FY 12, OCR also distributed an electronic stakeholder survey comprised of 25 questions aimed at assessing GAL performance. The OCR identified caseworkers, attorneys for parents, department attorneys, judicial officers, and CASA volunteers as key stakeholders for this assessment.¹ The survey sought feedback on GAL knowledge, performance, participation in case conferencing, and general practice. OCR received 1035 electronic survey responses, including responses from each judicial district, which provided feedback on approximately 215 guardians *ad litem*.



Stakeholder feedback is an important component of OCR’s assessment of GAL services and training needs. Highlights of the electronic surveys are shown below:

| Question answered (respondents were allowed to answer “Do Not Know”) | Strongly Agree/ Agree |
|--|------------------------------|
| GAL Possesses relevant skills | 86% |
| GAL possesses requisite knowledge | 84% |
| GAL familiar with community services | 84% |
| GAL attends all court hearings | 91% |
| GAL critically assesses department case plans & permanency plans | 72% |
| GAL is respectful of others involved in the case | 82% |

¹ The OCR recognizes foster parents, respondent parents, and youth as vital stakeholders in juvenile court proceedings, however, it was not feasible to include them in this evaluation. The OCR plans to include these additional groups in the Multidisciplinary Law Office evaluation.

OCR's annual contract process serves as an effective method of monitoring attorney services and ensures that qualified attorneys provide consistent best interests legal representation for children throughout Colorado. The contract process also provides OCR with the ability to address systemic needs within each jurisdictional district, such as the need for additional or fewer attorneys, training requirements on specific issue(s), or general concerns within the system.

The OCR's current contract process includes a series of steps, including review of the stakeholder surveys detailed above. OCR requires all attorneys, regardless of whether they have an existing contract or are new applicants, to complete an application. Selected applicants are contacted and interviewed. Every application is considered and contracts are not automatically renewed. In FY 12, OCR received 196 renewal applications and 51 new applications.

OCR's Executive Director and attorney staff endeavor to meet personally or by teleconference with contract attorneys, new applicants, judicial officers, court personnel, and CASA directors each year. In some instances, OCR attorney staff contacts country attorneys and county department of social services directors, as well as other community agencies involved in the protection of children. OCR discusses attorney performance, judicial concerns, jurisdictional trends, and potential training needs. At the completion of the judicial district contacts, OCR compiles its annual list of attorneys eligible for appointment in each judicial district, distributes it to judges and court staff within each judicial district by July 1st of each year, and subsequently prepares yearly contracts for attorneys on its list.

Attorney billing submittals are scrutinized by OCR staff, controller, and, as needed, attorneys in order to ensure that the work done meets minimum standards and that state dollars are efficiently used for only allowable expenditures. OCR staff also conducts random audits of attorney billing throughout the year.

OCR attorney staff investigate complaints and assess complements of contract attorney's work throughout the year. OCR attorney staff investigated 29 complaints in FY 12. Each complaint was thoroughly investigated by contacting the complainant and attorney, reviewing the court record of action and attorney billing submittals, and interviewing witnesses identified by both the complainant and the attorney. Eleven complaints were deemed "founded"; giving rise to an audit of the attorney's work to determine whether the behavior was an anomaly in practice or part of a pattern of conduct. OCR has implemented corrective action, including terminating or not renewing attorney contracts with GALs who have displayed a pattern of failing to meet OCR expectations, the requirements of CJD 04-06, and contractual obligations.

II. Establish minimum practice standards, duties and responsibilities for all attorneys representing children in judicial proceedings, including the investigation of maximum-caseload limitations for GALs.

OCR maintains high expectations of its attorneys. In addition to the professional standards governing all attorneys, OCR attorneys are held to standards set by CJD 04-06 and their contract with OCR. An OCR attorney must independently investigate matters, make recommendations that are in the best interests of the child, and advocate on the child's behalf. The attorney must meet each child client in every placement and continue to communicate with the child throughout the case. Usually, there is more than one child per case and the children are often placed in different homes or treatment facilities. The attorney must consult

with each child in a developmentally appropriate manner and consider the child's position in formulating his/her determination of the child's best interests. The attorney must appear at all court hearings; attend ancillary hearings such as special education hearings or child support hearings; prepare for and litigate contested matters; and participate in out-of-court meetings concerning appropriate placement, treatment, and long-term planning for the child. The GAL must interview and maintain contact with other people involved in the child's life, including the Court Appointed Special Advocate (CASA) volunteer if one is assigned to the case. The GAL is responsible for promoting the child's safety and well-being throughout the case and ensuring that the child is successfully placed in a safe, appropriate and permanent home.

OCR's Cornerstone Advocacy initiative, a modified version of New York's Center for Family Representation's Cornerstone Advocacy program, emphasizes proactive and intensive advocacy in D&N cases focused on four cornerstones:

- Frequent and meaningful visits,
- Placement arrangements supportive of family connections,
- Services tailored to the strengths and needs of children and parents,
- Education and transition planning supportive of academic and life success.

Cornerstone Advocacy provides a framework for a GAL's investigation and advocacy and is consistent with the Colorado Children's Code stated preference for in-home placement, preserving and strengthening family ties whenever possible, and timely resolution of cases in the best interests of children. See C.R.S. § 19-1.102(1). An assessment of Cornerstone Advocacy as implemented in New York City demonstrated that this model has resulted in significantly more children remaining in in-home placements, reduced time in foster care, and lower foster care reentry rates.

Implemented in FY 10, OCR has continued trainings focused on the initiative throughout FY 12. OCR's webinars often highlighted supporting family/kinship care. OCR also conducted advocacy skills hands-on trainings in September 2011 and February 2012 which highlighted decision points informed by Cornerstone Advocacy principles. At the advocacy trainings, attorneys practiced trial skills and an advocacy approach focused on the four cornerstones in a fictional dependency and neglect case. The OCR also integrated Cornerstone Advocacy themes into its June 2012 statewide conference, with emphasis on the Cornerstone Advocacy strategy of youth voice.

As will be discussed in more detail in this report, the OCR has also realized its goal of publishing a dependency and neglect advocacy guide. (See page 17) This guide, called the General Reference in Dependency or GRID, integrates Cornerstone Advocacy principles into its hearings checklists and advocacy tips, providing another concrete and useful tool supportive of this initiative.

OCR continues to assess the establishment of caseload limitations. OCR's pilot office programs, which have implemented caseload limits, and data management system will further inform its assessment of establishing caseload limitations. OCR is able to monitor individual attorney caseloads through the use of the AnyCase data system (formerly known as KIDS) and plans to develop a formalized process of determining whether to implement caseload limitations of all independent contractors.

III. Provide litigation support to the practice of OCR attorneys.

The OCR believes serving as a resource to attorneys is a critical part of its mission to improve the quality of best interests representation. Attorneys are welcome to contact the Executive Director and attorney staff for assistance. The OCR serves as a resource and offers support to its contract attorneys on a daily basis in a number of ways.

Response to individual inquiries by contract attorneys. Attorneys are encouraged to contact the Executive Director, staff attorneys, and other staff for assistance. OCR provides litigation support, legal references and research, and expert resources to attorneys. OCR assists contract attorneys by providing legal information and guiding them to relevant statutory and case law, appropriate professionals, written materials, and other resources. The Executive Director and attorney staff provide assistance with numerous legal issues in both trial and appellate courts.

OCR updates. OCR provides periodic electronic notices of recent federal and state court decisions and legislative changes that pertain to the representation of the best interests of children, trainings, and current events involving child welfare issues.

The OCR listserv. OCR contract attorneys are required to subscribe to the OCR listserv. The listserv is a forum for contract attorneys to ask questions about any aspect of their case, from information about a particular child placement agency or service provider to technical legal issues pending before the court. OCR also uses the listserv to communicate new case processes and inform contractors of developments in the field. The listserv is limited to attorneys who contract with OCR.

The OCR website. OCR's website maintains an active motions bank for OCR attorneys. OCR attorneys may also access billing procedures and policies. The website also publishes links to national organizations and resources for use by the general public.

IV. Establish minimum training requirements and provide accessible training statewide for attorneys, judges, magistrates, and Court Appointed Special Advocates (CASA) volunteers.

OCR recognizes that training for the attorneys is a critical component to enhancing the provision of legal services to children. A child-sensitive legal system depends upon a bench and bar of considerable sophistication and competence in not only the law but on issues unique to children. Attorneys representing children must draw upon interdisciplinary knowledge from such pertinent fields as psychology, sociology, social work, and medicine. Children are best served by legal practitioners in the child welfare system when judges and attorneys understand the social and psychological implications of a case, as well the impact of the developmental level and unique needs of each child.

OCR maintains stringent training requirements. OCR attorneys are contractually obligated to participate in a minimum of 10 hours of OCR sponsored training each year. OCR attorneys must list applicable Continuing Legal Education credits on their annual application. This fiscal year, OCR offered approximately 55 hours of training throughout the state through conferences, advocacy training "boot camps," and brown-bag

webinars. All of the brown-bag webinars were recorded and posted to the OCR website to ensure that training could be easily accessed at any time thereafter by those attorneys who could not attend.

To further expand training opportunities, the OCR continued its collaboration with the Colorado Department of Human Services to provide Continuing Legal Education credits for OCR attorneys who completed courses through the Colorado Child Welfare Training Academy (Academy). The Academy was being utilized by department caseworkers only, but this partnership has proven to be an efficient use of State resources as many of the in-person and computer-based trainings are applicable to both caseworkers and GALs. In addition, OCR attorneys are able to access the Academy's online student tracking system, which keeps track of the courses each student has completed.

Listed below are some of the major trainings that the OCR has participated in or sponsored over the last year.

- Where's the Money? Turning Funding Opportunities into Tangible Help for Families Brown-bag Webinar (7/15/2011)
- Kinship Care in Colorado Brown-bag Webinar (7/26/2011)
- OCR's Advocacy Skills Boot Camp, Denver, CO (9/12/11 – 9/13/2011)
- Neurofeedback Therapy Brown-bag Webinar (upcoming on 9/30/2011)
- Adoption Subsidies Brown-bag Webinar (10/14/11)
- Colorado's New Child Protection Ombudsman Program: How it Can Help GALs Advocate for Children & Families Brown-bag Webinar (10/21/2011)
- Mandatory OCR Billing Training Webinar (11/16/11)
- *Gabriesheski* Training Webinar (11/21/11)
- Reducing the Chances for False Abuse Allegations Training Webinar (12/9/11)
- OCR's Advocacy Skills Boot Camp, Greeley, CO (2/27/12 – 2/28/2012)
- OCR Glenwood Springs Conference, Glenwood Springs, CO (6/21/12-6/22/12)

OCR Executive Director and attorney staff also trained other professionals, stakeholders, and court personnel throughout FY 12. OCR spoke at the following conferences and training:

- Douglas County Department of Human Services Wrap-Around Services Team (7/29/11)
- NACAC Annual Conference, Denver, CO, The Role of GALs in Adoptions (8/5/11)
- NACC Conference on Multidisciplinary Law Office Project, San Diego, CA (8/30/11)
- Denver Foster Care Support Group, Denver, CO, OCR and GALs (9/19/11)
- Colorado District Administrators, Golden, CO, The OCR Complaint Process (9/30/11)
- KOA Radio, Denver, CO, The *Gabriesheski* Decision (11/5/11)
- Colorado Continuing Legal Education, Denver, CO, *Gabriesheski* Update (11/7/11)
- Colorado Juvenile Law Section, Denver, CO, *Gabriesheski* and Confidentiality (11/9/11)
- DU Law School, Denver, CO, Public Interest Careers (11/15/11)
- CASA of Colorado, Denver, CO, The *Gabriesheski* Decision (11/16/11)
- Legal Center for People with Disabilities, Denver, CO, OCR and GALs (12/15/11)
- Foster Parent Support Group, Denver, CO, OCR and GALs

- Legal Support Professionals, Lone Tree, CO, OCR Accountability for Best Interests Representation of Children (1/28/12)
- Denver Domestic Relations Court, Denver, CO, Role of CFI and OCR's Oversight in State-Paid Cases
- Larimer County Foster Parent's Association, Loveland, CO, OCR Accountability for Best Interests Representation of Children (4/28/12)
- RPC Appeals Training (5/12)
- Colorado County Attorney Association, *Gabriesheski* and Confidentiality (6/9/12)

V. Establish fair and realistic compensation for state-appointed children's attorneys sufficient to retain high-quality, experienced pediatric attorneys.

OCR's legislative mandate includes establishing fair and realistic compensation for contract attorneys, with the goal of adequately paying attorneys for the work they perform. OCR inherited a flat rate pay system at its formation. With General Assembly support, OCR transitioned the payment structure to hourly billing. The hourly fee limit has been set at \$65/hour over the course of several legislative sessions and is the identical rate paid by the Office of Alternative Defense Counsel and the State Court Administrator's Office. The JBC historically supports this hourly rate and recognizes that the attorneys who are paid the state rate earn less than attorneys in the private sector. Due to the budget crisis, OCR has not pursued a raise for court appointed attorneys during past fiscal years and it will not do so in the current fiscal climate.

VI. Assess and document the effectiveness of various models of legal service provision.

OCR provides attorney services to Colorado's children by employing three models of representation. OCR provides legal services by contracting with independent contractors, hiring state employees in one judicial district, and contracting with pilot multidisciplinary offices in two judicial districts.

1. **Independent contractors** continue to provide children legal services in each judicial district. The contract attorneys are small business owners within their communities. Many lease office space and employ other members of the community in which they practice. This model is the historical means of providing best interests representation in Colorado.
2. **The Office of the Child's Representative El Paso County Guardian *ad litem* Office (OCR El Paso GAL Office)** in the 4th Judicial District is a model office staffed by state employees that falls under the oversight of the OCR. The Managing Attorney remains Debra Campeau. OCR's El Paso GAL Office provides legal services in a manner similar to the manner in which a local Public Defender's office provides attorney services. The office was created in December 1999 in response to Senate Bill 99-215 footnote 135 which directed the Judicial Department to pilot alternative methods of providing GAL services. The goal of this pilot program was to determine whether higher quality services could be provided through a staff model at the same or less cost as the then-existing attorney payment process (contract/hourly billing model).

The OCR El Paso GAL Office operates as a multidisciplinary public law firm and employs 13 attorneys, five case workers/coordinators, and four support staff (19.4 FTE). The case coordinators have a social work or related background. The case coordinators make a significant contribution to the legal representation of children by assisting attorneys in their analyses of treatment needs, participating in case meetings, communicating with treatment providers, reviewing psycho-social assessments, and observing visits between parents and their children.

The National Association of Counsel for Children (NACC) has endorsed dedicated children's law offices as one of the best models for delivery of high-quality legal services. Moreover, members of the El Paso child welfare community and the court system have commented on the significant improvements in GAL representation as a direct result of the OCR El Paso GAL office. The OCR El Paso GAL Office is included in the multidisciplinary law office evaluation underway, as detailed below.

3. **OCR's Multidisciplinary law office pilot project.** In 2003, the General Assembly instructed OCR in SB 03-258 Footnote 118 to study alternative methods of providing GAL services in dependency and neglect cases, specifically whether OCR could implement a multidisciplinary office in Denver similar to the OCR El Paso GAL Office. In May 2010, the OCR issued a Request for Proposals for the creation of multidisciplinary law offices in Denver and Arapahoe counties. In January 2011, the OCR contracted with three such offices to implement a multidisciplinary approach to GAL services in those two counties.

OCR established the multidisciplinary law offices as a 30 month pilot project from January 1, 2011 through June 30, 2013. The offices are staffed by attorneys and social service professionals with the goal of providing innovative and efficient GAL services resulting in better outcomes for children. In addition to implementing a multidisciplinary approach to cases, the offices operate under enhanced practice standards and provide supervision and accountability.

The OCR has partnered with the University of Denver Graduate School of Social Work to evaluate the effectiveness of the multidisciplinary law office as a model of delivering legal services to children in juvenile court proceedings. The study is currently underway. It specifically focuses on understanding how the multidisciplinary law offices function and whether this model has enhanced GAL practice in Arapahoe, Denver, and El Paso counties. The research is scheduled to be completed next spring, with findings scheduled to be reported in June 2013.

VII. **Support Colorado Court Appointed Special Advocates in the development of programs in each county and enhance funding resources.**

While GALs are the child's legal advocate and parties to D&N cases, community volunteers, known as CASAs, are appointed in 16 of Colorado's 22 judicial districts by the court to serve as a support to children and their families and provide helpful information to the GAL and court. Although each local program is unique, similarities do exist. The CASA's role is outlined in § 19-1-201, C.R.S. *et. seq.* CASA volunteers must meet minimum requirements, pass background checks, and successfully complete a mandatory 30 or 40-hour training program based on the curriculum created by the National CASA Association. Local CASA programs also require 12 hours of additional annual training. Most CASA volunteers concentrate their valuable service

on one case at a time. Typically, volunteers must commit to 1 year of service or for the duration of a case, whichever is longer. For example, Voices for Children, the Boulder County CASA Office, has over 100 community volunteers, at least 20% of which have served abused and neglected children 5 years or longer. In addition, local programs often require a minimum monthly time commitment from their volunteers. For example, CASA Advocates for Children in the 18th Judicial District requires volunteers to provide 10 hours of service monthly and maintain weekly contact with the children they serve.

OCR attorneys and CASA volunteers work collaboratively to advance the best interests of children. CASA volunteers provide written reports to the court and parties. CASAs participate in case meetings, help address educational issues, conduct supervised visits, support sibling visits, and provide transportation for parents and children. CASAs also establish supportive relationships with children, parents, and relatives or kin. CASA volunteers are able to bring joy to the children they serve by participating in fun activities with them such as bowling, attending movies, and shopping; these activities are funded by the CASA volunteer.

In FY 12, Colorado CASA received \$475,000 from the State of Colorado as a line item in the OCR Budget. These dollars were primarily used for personnel expenses necessary to train and supervise volunteers in Colorado's 17 CASA programs. In FY 12, Colorado CASA was reorganized and renamed. Now known as CASA in Colorado, the organization is run by one staff member whose mission it is to support local CASA agencies. The reorganization resulted in more monies being passed to the local CASA programs.

2012 INNOVATIONS TO OCR PROVISION OF LEGAL SERVICES

I. **AnyCase Data Management and Billing System (formerly known as KIDS).**

AnyCase (formerly known as KIDS) is the OCR's statewide case management and billing system. It was first implemented in the multidisciplinary law offices in March 2011 and extended to OCR attorneys across the state on July 1, 2011. Members of the multidisciplinary law office and all contract attorneys are required to input case information and data for each appointment. Information includes home visits, phone calls, meetings, document preparation, court hearing dates and outcomes, and placement moves. AnyCase allows for information sharing between attorneys, paralegals, social workers, and supervisors on each case. Additionally, the OCR has access to case information, except attorney work product, in order to confirm compliance with the requirements set forth in CJD 04-06, provide enhanced oversight, and track trends for each jurisdiction and the state.

II. **Dependency and Neglect Advocacy Guide known as The Guided Reference in Dependency (GRID)**

A longstanding goal of the OCR has been to develop a comprehensive advocacy guide for GALs. Last year, the OCR secured Children's Justice Act funds to publish such a guide in Fiscal Year 2013. The OCR collaborated with Colorado's Court Improvement Program (CIP) to include parents' counsel in the group of attorneys to whom this guide will apply.

The GRID will serve as a state and federal law reference for GALs and respondent parent counsel. The guide will cover the main hearings that occur in D&N cases, detailing the black letter law (statutes and seminal cases) governing the hearings and containing checklists and practice tips for GALs and parents' counsel. The checklists will consist of a list of activities and considerations that each attorney should engage in prior to, during, and after each hearing type. Fact sheets will highlight key aspects of issues that arise in D&N cases but that are not unique to a particular hearing (e.g., educational stability, sibling connections, involving youth in court). Quick reference will be facilitated by the use of tabs, a user-friendly formatting system, and an extensive index; the relatively small size of the book (although it will contain approximately 500 pages, it will be approximately the size of a Colorado statute's book) will further its ease of use for attorneys in court. In fall 2012, physical copies will be made available to all GALs and respondent parent counsel, as well as judicial officers and county attorneys. The GRID will also be posted on line. This OCR project is modeled after the California Dependency Quick Guide.

Because the GRID will serve as Colorado's first comprehensive integration of the legal standards governing dependency and neglect cases with best and promising attorney practices, it is a significant step in improving the practice of GALs in Colorado. Its publication and dissemination will allow the OCR to assume a higher level of base knowledge and core practice for all GALs representing the interests of children in Colorado's courts.

OCR staff has taken the lead in the coordination of the writing, editing, and publishing of the GRID and the Deputy Director is serving as primary content editor. The OCR, in collaboration with CIP, is hosting a conference in October 2012 to launch the GRID.

III. **National Association of Counsel for Children (NACC) Child Welfare Law Certification Program**

The NACC is a non-profit child advocacy and membership organization “dedicated to providing high-quality legal representation for children.” The NACC has developed a child welfare law certification program in which an attorney who has demonstrated substantial and satisfactory involvement in child welfare law and passed a national child welfare law exam can be certified as a Child Welfare Law Specialist. In 2009, NACC Certification as a Child Welfare Law Specialist became available in Colorado. OCR supported the NACC’s efforts to make certification available. In July 2011, the first group of Colorado Child Welfare Law Specialists received their credentials (7 attorneys). Attorneys interested in becoming certified traditionally must pay a \$300 application fee and a \$300 examination fee, making this endeavor cost-prohibitive for some GALs. In 2011, the U.S. Children’s Bureau National Quality Improvement Center on the Representation of Children in the Child Welfare System supported the NACC in waiving some of the costs associated with certification, enabling more attorneys to pursue certification as a Child Welfare Law Specialist.

The OCR believes the option of certification serves as yet another means of elevating the practice of juvenile law. Several OCR attorneys are pursuing certification as Child Welfare Law Specialists during the NACC’s current certification cycle.

IV. **Monitoring and Involvement in Court of Appeals and Supreme Court Cases**

OCR attorney staff weekly monitors decisions published by the Colorado Court of Appeals and the Colorado Supreme Court and keeps GALs apprised of significant appellate decisions impacting their GAL/CLR practice. Additionally, OCR occasionally weighs in as *amicus curiae* on Colorado Supreme Court cases that may have significant implications for GALs. Participation as *amicus*, also referred to as “friend of the court,” allows a non-party to the case to weigh in on the case’s policy or other implications. The court must grant permission to participate as *amicus*. The cases on which the OCR has participated as *amicus* have significant policy implications for GALs and juvenile law practitioners.

During FY 12, the OCR *amicus* activity focused on two matters pending before the Colorado Supreme Court. At issue in 11 SC 725, *In the Interest of A.C.*, is whether pre-adoptive foster parents of a child whose biological parents’ rights have been terminated have a constitutionally protected liberty interest in a continuing relationship with the child and a right to due process concerning removal of the child from the foster parents’ home. At issue in *In the Interest of L.A.N. a/k/a L.A.C.*, 11 SC 529, is whether the court of appeals erred in determining that the child’s psychotherapist-patient privilege was waived with respect to certain materials in the psychotherapist’s file and whether a guardian ad litem in a dependency and neglect proceeding can waive the child’s psychotherapist-patient privilege.

Oral argument in *A.C.* was heard by the Colorado Supreme Court on June 7, 2012. The OCR argued the creation of a constitutionally protected liberty interest of pre-adoptive foster parent’s desire for a continuing relationship with the child infringes upon the foster child’s statutory rights established in the Children’s Code and diverts the focus of the proceedings from the best interests of the child. The OCR awaits the Court’s decision.

Oral argument is scheduled to occur in October 2012 in *L.A.N.* Although an extensive body of case law exists

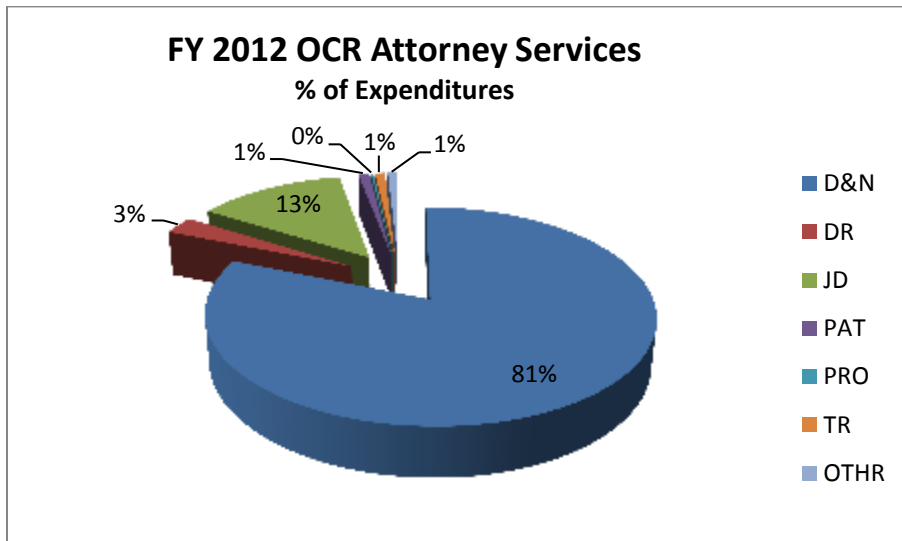
in Colorado regarding the therapist-patient privilege set forth in § 13-90-107(1)(g), there is little direct guidance on who should be able to invoke or waive the privilege on behalf of a child in a dependency and neglect proceeding. Resolution of the issues presented for review requires consideration of the privacy interests of children, the purpose of dependency and neglect proceedings, and the unique role and responsibilities of GALs in such proceedings. *L.A.N.* presents an opportunity to clarify the privacy interests of children in dependency and neglect proceedings and the role of the GAL in preserving those privacy interests.

OVERVIEW OF OCR BUDGET

One of the OCR's mandates is to enhance funding to promote effective legal advocacy. Given the state of Colorado's FY 12 budget, the OCR continued its focus on creating efficiencies and securing basic funding to meet the need for attorney services. The following is an overview of the OCR budget and an outline of factors that contribute to the budget.

Summary of Appropriations: In FY 12, the OCR spent 4.64% of its budget on its central administrative office, which is dedicated to fulfilling OCR's statutory mandates. \$16,462,536 was spent on attorney services for children. \$475,000 was passed directly through to CASA of Colorado. OCR used \$38,000 of the its budget to providing training to GALs and other stakeholders throughout Colorado.

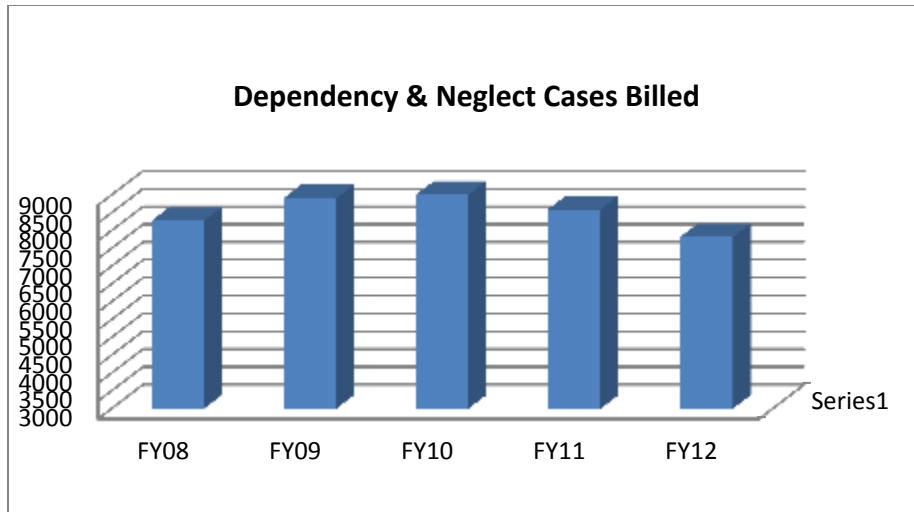
Breakdown of the Mandated Attorney Services Provided by OCR: OCR attorneys represent the best interests of children in dependency and neglect, delinquency, domestic relations, truancy, paternity and probate. In FY 12, the OCR paid attorney services in 12,987 case appointments. The average cost of an OCR case was \$1,138 in FY 12. The appointments in dependency and neglect cases account for 81% of attorney services expenditures. The breakdown of expenditures by case type is in the chart below.



The OCR saw an overall decrease in appointments from the previous three fiscal years. The breakdown of appointments over the last five fiscal years is shown in the table below.

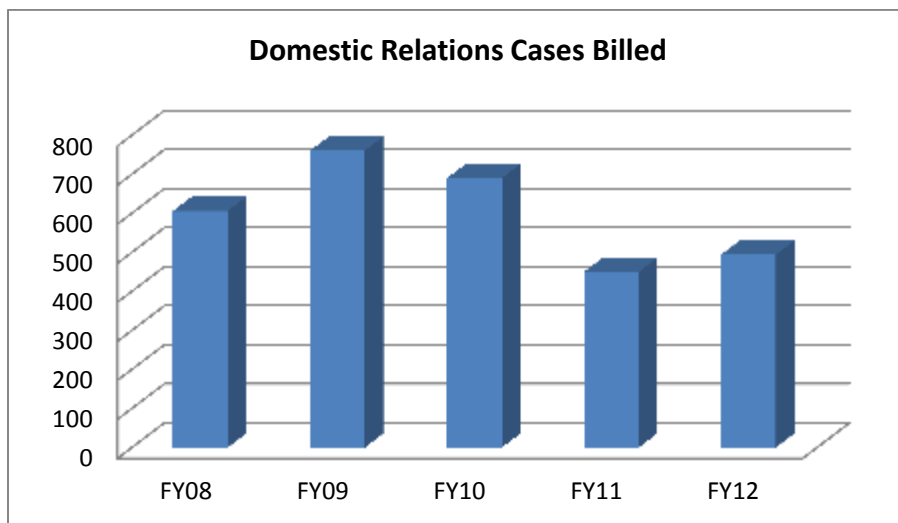
| Type of Case | FY08 | FY09 | FY10 | FY11 | FY12 |
|----------------------|---------------|---------------|---------------|---------------|---------------|
| Dependency & Neglect | 8,269 | 8,906 | 9,038 | 8,594 | 7,817 |
| Juvenile Delinquency | 3,874 | 4,423 | 4,299 | 3,903 | 3,846 |
| Domestic Relations | 606 | 760 | 690 | 450 | 494 |
| Truancy | 514 | 475 | 406 | 416 | 426 |
| Paternity | 108 | 138 | 198 | 146 | 159 |
| Probate | 73 | 71 | 64 | 79 | 61 |
| Other | 56 | 70 | 99 | 68 | 184 |
| Total | 13,500 | 14,843 | 14,794 | 13,656 | 12,987 |

Dependency and Neglect. The OCR experienced a decrease in dependency and neglect costs, although D&N expenditures still account for 81% of attorney expenditures. The average cost per dependency and neglect cases was \$1,536 in FY 12. In FY 11, the average cost per dependency and neglect case was \$1,565. The decrease in per case billing costs may be attributed to OCR’s continued efforts to establish practice efficiencies which offset economic factors that create case complexities. Fewer resources for families and increased caseloads for social services staff mean that additional attorney time is required to successfully resolve cases, but OCR stresses the attorney’s needs to make efficient use of that additional time.

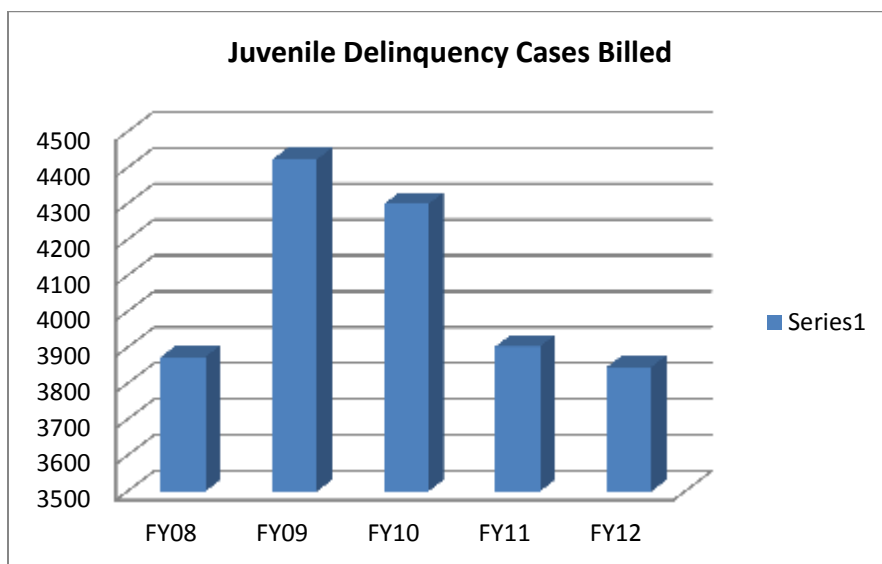


Domestic Relations Cases. Indigent parties may seek court appointment of a state-paid attorney child and family investigators (CFI) or child’s legal representatives (CLR). The attorneys appointed as such are subject to OCR oversight and comprise the OCR DR appointments. Domestic relations appointments of OCR attorneys increased by 9.8% in FY 12, with 494 appointments in FY 12 compared to 450 appointments billed in FY 11. OCR had seen a decrease in domestic relations appointments in previous years, however, in FY 12, the OCR incurred a slight increase in appointments resulting in \$408,037 in costs for 494 cases with an average cost per DR case of \$826.

The ENA pilot program in Adams County has proven to be a cost effective measure. This pilot program is similar to mediation in that the parties work with an attorney and a therapist prior to court in order to work out any differences in such matters as parenting time and visitation. In FY 12, ten Adams County cases qualified for participation in the ENA program as opposed to five in FY 11. The total cost of the Adams County ENA program \$5,200 in FY 12 while 36 traditional CFI appointments in Adams County cost of \$32,956. In light of the ENA program’s apparent cost-savings, OCR agreed to expand the program to Denver County in April 2012.



Juvenile Delinquency. FY 12 yielded an increase in JD costs, with a slight increase in cost per case of \$10. This average cost per case, \$502 in FY 12, however, is slightly less than the average cost per case in FY 10 of \$512. The OCR continues to train judicial staff and attorneys on the requirements of SB 09-268, which amended C.R.S. § 19-1-111 to clarify that GALs are only appointed in certain instances in delinquency matters: if a parent is not present, if there is a conflict of interest between the child and parent, and emphasizing that appointment must be in the best interests of the child. Also, the OCR continues to emphasize that the GAL must not remain on the case indefinitely and the GAL’s appointment terminates upon sentencing when the child is returned home.



Wait time in court. The OCR continues to benefit from its decision to highlight wait time in its efforts to reduce costs to the state. In July 2009, OCR staff recognized that in some jurisdictions attorneys were waiting for lengthy periods of time for their cases to be called on the docket. The OCR brought this to the attention of the judicial districts by providing monthly wait time reports which began a dialogue between OCR, the courts, and attorneys regarding strategies to minimize this unnecessary cost. Throughout FY 11, OCR continued to publish monthly reports of wait time in court in each judicial district. In FY 10, a total of 10,318 hours of wait time were billed to OCR. In FY 11, such billing was reduced to 5,336 hours a 51.7% reduction. In FY 12, OCR saw a further reduction in wait time billing to 4,789 hours. OCR is appreciative of the significant attention given to this issue by the courts and its attorneys.

Other factors driving the OCR budget

Several other factors drive the OCR budget. In FY 12, the OCR saw a marked increase in appellate case filings/billings. In FY 12, 139 cases were filed in the Court of Appeals and 6 cases were pending before the Supreme Court. The OCR requires its attorneys to participate in appellate matters and provides appellate attorneys for those trial attorneys unable to actively engage in appellate practice. It continues to be the case that GALs are doing more initial advocacy to seek services for children and families. Also, as there is a lack of available service providers, GALs have increased the litigation of matters such as placements and appropriate

treatment. If treatment is not available for parents and children, the goal of reunification is threatened and the duration of out of home placement increases, thereby increasing costs to the state. As one GAL notes, "The cases are more complex. Not only am I an attorney who must file motions and litigate issues, but I have to understand the treatments available to children and families, substance abuse and mental health issues, and the psychological ramifications of physical and sexual abuse. I am doing more and more casework as the department of social services is short staffed." In addition, department initiatives can create need for attorney participation at additional meetings and staffings.

Appendix A

OCR Legislative Review

SB 12-011 Differential Response Pilot Program. Amendment § 19-3-308.3. Eliminates the 5 county limit on the number of counties that may participate in the differential response pilot program for child abuse or neglect cases of low or moderate risk. DHS Executive Director has sole authority to select participating counties. Requires DHS to promulgate rules to define, implement, and administer program.

SB 12-066 Guardianship Assistance Program. The act adds persons ascribed by a family as having a family-like relationship with the child or who had a prior significant relationship with the child to the type of individuals eligible to participate in the guardianship assistance program.

HB 12-1047 Waiver of Non-safety Licensing Standards for Kinship Foster Care. Adds § 26-6-106. Allows county director of social services (or designee) discretion to waive, in writing, non-safety licensing standards pursuant to rules promulgated by the state board.

SB 12-033 Child Fatality Review Team. Amends § 26-1-139. The act defines the terms "near fatalities" and "incidents of egregious abuse or neglect" and adds the review of those events to the responsibilities of the department of human services child fatality review team. DHS must promulgate rules.

APPENDIX B

OCR COMMITTEE WORK

Successful advocacy for children is often the result of collaboration and the sharing of resources among many state agencies and child advocate organizations. The following is a list of OCR committee involvement either as member or chairperson.

Supreme Court Family Issues Committee and Other Professionals Standing Subcommittee: This committee was established by the Supreme Court, as a result of the recommendations of the Colorado Supreme Court Commission on Families. The Executive Director serves on this committee.

The Child Welfare Training Steering Committee: A newly formed committee of the Colorado Department of Human Services (CDHS), county departments, and stakeholders working to redesign Colorado state training models for social workers and supervisors to help improve outcomes for children and families. The Executive Director and Training Coordinator serve on this committee.

CDHS'S Child Welfare Executive Leadership Council: The council brings together executive leaders in child abuse prevention and protective services from across Colorado to provide advice and counsel to CDHS on matters related to protecting vulnerable children and advancing our child protective services system. The Executive director serves on this council.

The Child Welfare Strategy Group: This group is sponsored by the Annie E. Casey Foundation's Center for Effective Services and System. The group is working on identifying and implementing strategies to advance permanency for older youth in Colorado. The Executive Director is a member of the Sponsor Group.

Colorado Child Fatality Prevention Review Team: This is a state-wide multidisciplinary team that examines every child death in Colorado. The committee is charged with compiling statistical analysis, trends and recommendations to reduce child fatalities. The Deputy Director serves on this committee.

Court Improvement Committee: OCR is a member of the Colorado Court Improvement Committee, serving as an ex-officio member without voting rights. The CIC focuses on improving the justice system for children, especially children in dependency and neglect cases. Specifically, the CIC oversees the federal grant given to each state that is to be utilized to improve the Dependency Court System.

Training Subcommittee of the Court Improvement Committee: This subcommittee was established in the beginning of 2007, and the purpose of the committee is to develop a multi-disciplinary training curriculum with CDHS, judges, county attorneys, GALs, Respondent Parent's Counsel and other stakeholders.

Domestic Violence in Domestic Relations Task Force: This committee focuses on the impact domestic violence has in domestic relations and is reviewing practice standards and applicable statutes in order to formulate recommendations for areas of improvement.

Juvenile Justice and Mental Health Subcommittee of the Legislative Task Force on the Mentally Ill in Criminal Justice: This committee focuses on obtaining consistent screening for those in the juvenile justice system and working with family advocates to assist families with mental health or juvenile justice problems.

CASA Legislative Committee: OCR staff was appointed to serve on the CASA legislative committee. This committee will gather information about pursuing upcoming legislation to benefit CASA programs statewide.

Our Kids, Your Kids Steering Committee: OCR is one of the founding organizations which are creating a network to support children and youth involved in the court system.

Collaboration in 2012 and Beyond: County, state, agency, and provider stakeholders meet to discuss relevant issues, initiatives, and potential legislative agendas.

Juvenile Law Section of the Colorado Bar Association: The Executive Director is the co-editor (along with Barb Shaklee of DDHS) for the Juvenile Law section of the Colorado Lawyer which involves obtaining article submissions and editing them for publication in the Colorado Lawyer.

Legislative Implementation Committees: Legislation passed by the General Assembly requires implementation by the Executive and Judicial Branches. OCR attorney staff participate in multi-disciplinary committees in order to affect the General Assembly's intent in the area of child and juvenile law.

Three Branch Institute on Adolescents in Foster Care. Colorado was awarded a grant by the National Governor's Association — Three Branch Institute on Adolescents in Foster Care to bring together representatives from the Executive, Legislative and Judicial branches, county government and key permanency stakeholders to address permanency for older youth in foster care. The Executive Director and staff attorneys participate in various committees/summits held in order to affect cross-systems improvements for this vulnerable population of abused and neglected children.